

The “efficient immunomagnetic recovery” in the claims refers to the efficient isolation from non-target cells using the compositions, methods and kits of the present invention (page 6, para 0054). The improvement is seen in the ability to accurately assess the isolation and identification of rare cells, based upon the recovery of control cells (page 5, para 0039). Recovery of stable control cells provide for confident rare cell analysis. Applicant has removed the term “efficient immunomagnetic recovery” in describing the stabilized cell better clarify the substance of this claim element.

Claims 1-4, 7-14, 16-23, 27-31, 34-42, 46 and 55-59 are rejected as being indefinite under 35 U.S.C. first paragraph.

Claims 1, 7, 10, 20, 37 the limitation “wherein said spectra are detected through the same spectral window” lacks support for the detection of different emission spectra through the same spectral window.

#3 Response:

One aspect of the invention redundantly labels the cell membrane of the control cell with at least two fluorescent labels having the same spectral properties (page 5, para 0040). Further, two different cellular components can be labeled with structurally and spectrally different fluorophores. Whether the same or different structural cellular element is redundantly pre-labeled, the ability to detect one or both fluorophores reduces the already low probability of misclassifying a control cell (page 10, para 0094). Consequently, applicant has restructured the wording in the claim to reflect the a limited scope as described in the specifications wherein dual labeling of control cells is limited to spectrally similar fluorophores redundantly labeling the control cell membrane.

Claims 1 and 28 are indefinite for failure to provide support for enhanced immunomagnetic recovery based upon stability.

#4 Response:

“efficient immunomagnetic recovery” in the claims has been deleted as discussed in #2 Response. The enhanced recovery provides for an efficient isolation from non-target cells using the compositions, methods and kits of the present invention (page 6, para 0054). The enhanced recovery is due to the ability to accurately assess the isolation and identification of rare cells, based upon the recovery of control cells (page 5, para 0039). Recovery of stable control cells provide for confident rare cell analysis. Applicant has removed the term “efficient immunomagnetic recovery” (#2 Response) and has incorporated the phrase “wherein said physically and biologically stable control cell recovery provides accurate assessment in the isolation and identification of said rare cells.” Applicant submits that the amended portion provides a more succinct description of the stabilized cell and the process for producing it.

Claim 16 “wherein said stabilization does not alter light scattering” is indefinite.

#5 Response:

Applicant has deleted this portion of the element to better clarify.

Claim 35 and 55 recite the “wherein said stabilization does not alter light scattering” is indefinite.

#6 Response:

Applicant has amended the claim to read “the control cells are stable” rather than “the control cells have been stabilized”

By the attached amendments, applicants have amended the claims to define the invention more particularly and distinctly so as to overcome the rejections and to patentably define the invention over the prior art. In view of these amendments and related discussions and arguments, it is respectfully urged that the rejections set forth in the 03 January 2007 Office Action be withdrawn and that this application be passed to issue. In the event the examiner has any comments or questions, the examiner is invited to telephone or e-mail applicants' undersigned representative at the number below.

Yours Respectfully,


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